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EXAMINER

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/643,527
Filing Date: August 19, 2003
Appellant(s): SMITH ET AL.

Lisa Ryan-Lindquist
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12 November 2009 appealing from the Office action mailed 26 May 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,001,125	Golds et al.	12-1999
6,264,684	Banas et al.	7-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 15, 16 and 18-23 are under 35 U.S.C. 103(a) as obvious over Golds et al. (US Patent 6,001,125) in view of Banas et al. (6,264,684).

Claim 15, 16, 18, 20: Golds'125 teaches a stent/graft that contains a continuous inner tubular body (24) and an outer layer of stent (28 or 36) in direct contact with the tubular inner body and an outer PTFE layer (22). This is shown in Figures 7 and 8. The support structure (28 or 36) is in direct contact with the inner tubular layer (see Figure 8). Golds'125 does not teach the formation of an assembly strip made of the stent and an outer PTFE layer.

Banas'684 teaches that it is known to create an assembly strip formed of a non-continuous PTFE tubular outer body (the outer portion of cladding 11) and a distensible support structure (14) that is non-continuously wound around a substantially continuous PTFE tubular inner body (12) (see Figure 1 or 4b). It would be obvious to one of ordinary skill in the art to modify the device taught by Golds'125 with an assembly strip,

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as taught by Banas'684 because the use of the strip allows the user to control the location of the placement of the distensible structure on the inner tubular body, allowing the user more latitude in controlling the amount of flexibility in the graft device (column 10, line 56 to column 11, line 18).

Regarding Claims 21-23, Golds'125 shows that the support structure is applied to one side of the outer tubular member (see Figure 8). Further, Banas'684 also shows the distensible support structure is applied to at least one side of the tape strip (see Figure 2, for example).

(10) Response to Argument

Appellant argues that Gold in the embodiment of Figures 4 and 5, Gold teaches an inner tubular member and an outer tubular member which are separated by an ePTFE tape strip. In the embodiment of Figures 6-8, Gold teaches that the inner tubular member and outer tubular member can be separated by a stent. Appellant states that Gold does not teach the use of both a strip and stent in the same embodiment.

Gold's embodiment of Figure 4 and 5 was not referenced in the rejection. Examiner agrees with Appellant's assertion that Gold does not teach an embodiment with a strip and a stent, however, the rejection is based on the combination of Gold in view of Banas. Examiner maintains that it would be obvious to form the outer tubular member (22) and distensible member (36) of Gold into an assembly strip, as taught by Banas, rather than use them in their tubular form. Banas teaches this is advantageous for the purpose of controlling and customizing the location of the stent structure on the

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inner tubular member (column 10, line 56 to column 11, line 18). In light of this teaching, it would be obvious to apply the teachings of Banas'684 to the Gold'125 device.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Lindsey Bachman/

Examiner, Art Unit 3734

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